

Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 56

SENATE BILL 1255

AN ACT

AMENDING SECTIONS 33-808, 33-810 AND 33-812, ARIZONA REVISED STATUTES;
RELATING TO DEEDS OF TRUST.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-808, Arizona Revised Statutes, is amended to
3 read:

4 33-808. Notice of trustee's sale

5 A. The trustee shall give written notice of the time and place of sale
6 legally describing the trust property to be sold by each of the following
7 methods:

8 1. Recording a notice in the office of the recorder of each county
9 where the trust property is situated.

10 2. Giving notice as provided in section 33-809 to the extent
11 applicable.

12 3. Posting a copy of the notice of sale, at least twenty days before
13 the date of sale in some conspicuous place on the trust property to be sold,
14 if posting can be accomplished without a breach of the peace. If access to
15 the trust property is denied because a common entrance to the property is
16 restricted by a limited access gate or similar impediment, the property shall
17 be posted by posting notice at that gate or impediment. Notice shall also be
18 posted at one of the places provided for posting public notices at any
19 building that serves as a location of the superior court in the county where
20 the trust property is to be sold. Posting is deemed completed on the date
21 the trust property is posted. The posting of notice at the superior court
22 location is deemed a ministerial act.

23 4. Publication of the notice of sale in a newspaper of general
24 circulation in each county in which the trust property to be sold is
25 situated. The notice of sale shall be published at least once a week for
26 four consecutive weeks. The last date of publication shall not be less than
27 ten days prior to the date of sale. Publication is deemed completed on the
28 date of the first of the four publications of the notice of sale pursuant to
29 this paragraph.

30 B. The sale shall be held at the time and place designated in the
31 notice of sale on a day other than a Saturday or legal holiday between 9:00
32 a.m. and 5:00 p.m. mountain standard time at a specified place on the trust
33 property, at a specified place at any building that serves as a location of
34 the superior court or at a specified place at a place of business of the
35 trustee, in any county in which part of the trust property to be sold is
36 situated.

37 C. The notice of sale shall contain:

38 1. The date, time and place of the sale. The date, time and place
39 shall be set pursuant to section 33-807, subsection D. The date shall be no
40 sooner than the ninety-first day after the date that the notice of sale was
41 recorded.

42 2. The street address, if any, or identifiable location as well as
43 the legal description of the trust property.

3. The county assessor's tax parcel number for the trust property or the tax parcel number of a larger parcel of which the trust property is a part.

4. The original principal balance as shown on the deed of trust. If the amount is not shown on the deed of trust, it shall be listed as "unspecified".

5. The names and addresses, as of the date the notice of sale is recorded, of the beneficiary and the trustee, the name and address of the original trustor as stated in the deed of trust, the signature of the trustee and the basis for the trustee's qualification pursuant to section 33-803, subsection A, including an express statement of the paragraph under subsection A on which the qualification is based. The address of the beneficiary shall not be in care of the trustee.

6. The telephone number of the trustee.

7. THE NAME OF THE STATE OR FEDERAL LICENSING OR REGULATORY BODY OR CONTROLLING AGENCY OF THE TRUSTEE AS PRESCRIBED BY SECTION 33-803, SUBSECTION A.

D. The notice of sale shall be sufficient if made in substantially the following form:

Notice of Trustee's Sale

The following legally described trust property will be sold, pursuant to the power of sale under that certain trust deed recorded in docket or book _____ at page _____ records of _____ county, Arizona, at public auction to the highest bidder at (specific place of sale as permitted by law) _____, in _____ county, in or near _____, Arizona, on _____, _____, at _____ o'clock ____m. of said day:

(street address, if any, or identifiable

location of trust property)

(legal description of trust property)

Tax parcel number _____

Original principal balance \$

Name and address of beneficiary _____

[illegible]

Name and address of original trustor _____

[illegible]

Name, address and telephone number of trustee _____

Signature of trustee _____

Manner of trustee qualification _____

Name of trustee's regulator _____

Dated this _____ day of _____, ____.
(Acknowledgement)

E. Any error or omission in the information required by subsection C or D of this section, other than an error in the legal description of the trust property or an error in the date, time or place of sale, shall not invalidate a trustee's sale. Any error in the legal description of the trust property shall not invalidate a trustee's sale if considered as a whole the information provided is sufficient to identify the trust property being sold. If there is an error or omission in the legal description so that the trust property cannot be identified, or if there is an error in the date, time or place of sale, the trustee shall record a cancellation of notice of sale. The trustee or any person furnishing information to the trustee shall not be subject to liability for any error or omission in the information required by subsection C of this section except for the wilful and intentional failure to provide such information. This subsection does not apply to claims made by an insured under any policy of title insurance.

F. The notice of trustee sale may not be rerecorded for any reason. This subsection does not prohibit the recording of a new or subsequent notice of sale regarding the same property.

Sec. 2. Section 33-810, Arizona Revised Statutes, is amended to read:
33-810. Sale by public auction; postponement of sale

A. On the date and at the time and place designated in the notice of sale, the trustee shall offer to sell the trust property at public auction for cash to the highest bidder. The trustee may schedule more than one sale for the same date, time and place. The attorney or agent for the trustee may conduct the sale and act at such sale as the auctioneer for the trustee. Any person, including the trustee or beneficiary, may bid at the sale. Only the beneficiary may make a credit bid in lieu of cash at sale. The trustee shall require every bidder except the beneficiary to provide a ~~one~~ TEN thousand dollar deposit ~~in cash or in any other form~~ that is satisfactory to the trustee as a condition of entering a bid. ~~The trustee shall not refuse cash as a form of payment of the bidder's deposit.~~ The trustee or auctioneer may control the means and manner of the auction. Every bid shall be deemed an irrevocable offer until the sale is completed, except that a subsequent bid by the same bidder for a higher amount shall cancel that bidder's lower bid. To determine the highest price bid, the trustor or beneficiary present at the sale may recommend the manner in which the known lots, parcels or divisions of the trust property described in the notice of sale be sold. The trustee shall conditionally sell the trust property under each recommendation, and, in addition, shall conditionally sell the trust property as a whole. The trustee shall determine which conditional sale or sales result in the highest total price bid for all of the trust property. The trustee shall return deposits to all but the bidder or bidders whose bid or bids result in the highest bid price. The sale shall be completed on payment by the purchaser of the price bid in a form satisfactory to the trustee. The subsequent

1 execution, delivery and recordation of the trustee's deed as prescribed by
2 section 33-811 are ministerial acts. If the trustee's deed is recorded in
3 the county in which the trust property is located within fifteen business
4 days after the date of the sale, the trustee's sale is deemed perfected at
5 the appointed date and time of the trustee's sale. IF THE HIGHEST PRICE BID
6 AT A COMPLETED SALE IS LESS THAN THE AMOUNT OF THAT BIDDER'S DEPOSIT, THE
7 AMOUNT OF THE DEPOSIT IN EXCESS OF THE BID PRICE SHALL BE REFUNDED BY THE
8 TRUSTEE AT THE TIME OF DELIVERY OF THE TRUSTEE'S DEED.

9 B. The person conducting the sale may postpone or continue the sale
10 from time to time or change the place of the sale to any other location
11 authorized pursuant to this chapter by giving notice of the new date, time
12 and place by public declaration at the time and place last appointed for the
13 sale. Any new sale date shall be a fixed date within ninety calendar days of
14 the date of the declaration. After a sale has been postponed or continued,
15 the trustee, on request, shall make available the date and time of the next
16 scheduled sale and, if the location of the sale has been changed, the new
17 location of the sale until the sale has been conducted or canceled and
18 providing this information shall be without obligation or liability for the
19 accuracy or completeness of the information. No other notice of the
20 postponed, continued or relocated sale is required except as provided in
21 subsection C of this section.

22 C. A sale shall not be complete if the sale as held is contrary to or
23 in violation of any federal statute in effect because of an unknown or
24 undisclosed bankruptcy. A sale so held shall be deemed to be continued to a
25 date, time and place announced by the trustee at the sale and shall comply
26 with subsection B of this section or, if not announced, shall be continued to
27 the same place and at the same time twenty-eight days later, unless the
28 twenty-eighth day falls on a Saturday or legal holiday, in which event it
29 shall be continued to the first business day thereafter. In the event a sale
30 is continued because of an unknown or undisclosed bankruptcy, the trustee
31 shall notify by registered or certified mail, with postage prepaid, all
32 bidders who provide their names, addresses and telephone numbers in writing
33 to the party conducting the sale of the continuation of the sale.

34 D. A sale is postponed by operation of law to the next business day at
35 the same scheduled time and place if an act of force majeure prevents access
36 to the sale location for the conduct of the sale.

37 Sec. 3. Section 33-812, Arizona Revised Statutes, is amended to read:

38 33-812. Disposition of proceeds of sale

39 A. The trustee shall apply the proceeds of the trustee's sale in the
40 following order of priority:

41 1. To the costs and expenses of exercising the power of sale and the
42 sale, including the payment of the trustee's fees and reasonable attorney
43 fees actually incurred.

44 2. To the payment of the contract or contracts secured by the trust
45 deed.

1 3. To the payment of all other obligations provided in or secured by
2 the trust deed and actually paid by the beneficiary before the trustee's
3 sale.

4 4. TO ANY CONDOMINIUM ASSOCIATION OR PLANNED COMMUNITY ASSOCIATION AS
5 DEFINED IN CHAPTERS 9 OR 10 OF THIS TITLE WHO HAD A SUBORDINATE LIEN AS
6 PROVIDED BY LAW, EVEN IF THE TRUSTEE INTENDS TO DEPOSIT THE BALANCE PURSUANT
7 TO SUBSECTION C OF THIS SECTION. THE TRUSTEE MAY PAY AN ASSOCIATION'S LIEN
8 ON RECEIPT OF A WRITTEN CLAIM AND SHALL BE DISCHARGED FROM ANY LIABILITY FOR
9 ANY PAYMENT MADE IN GOOD FAITH. THE TRUSTEE MAY INQUIRE AS TO THE EXISTENCE
10 OF A LIEN IF THERE IS A RECORDED DECLARATION ON THE PROPERTY WITHOUT REGARD
11 TO WHETHER A LIEN HAS BEEN RECORDED. ANY PERSON WHO IS AN APPLICANT OR
12 RESPONDENT PURSUANT TO SUBSECTION G OF THIS SECTION MAY REQUIRE THE
13 CONDOMINIUM OR PLANNED COMMUNITY ASSOCIATION TO PROVE ITS ENTITLEMENT TO ANY
14 FUNDS RECEIVED FROM THE TRUSTEE. AN ASSOCIATION THAT DEMONSTRATES THAT THE
15 AMOUNT IT RECEIVED FROM THE TRUSTEE WAS PROPER IN ALL MATERIAL RESPECTS IS
16 ENTITLED TO AN AWARD OF ITS REASONABLE ATTORNEY FEES AND COURT COSTS AGAINST
17 THE APPLICANT OR RESPONDENT WHO CONTESTED THE PAYMENT. IF THE APPLICANT OR
18 RESPONDENT AGAINST WHOM THE ASSOCIATION'S AWARD IS ENTERED IS ENTITLED TO
19 EXCESS PROCEEDS OF THE SALE, THE AWARD OF ATTORNEY FEES AND COSTS SHALL BE
20 PAYABLE FROM THOSE EXCESS PROCEEDS.

21 ~~4.~~ 5. To the junior lienholders or encumbrancers in order of their
22 priority as they existed at the time of the sale. After payment in full OF
23 ALL SUMS DUE to all junior lienholders and encumbrancers AS OF THE DATE OF
24 THE SALE AND EXCLUDING ANY POSTSALE ATTORNEY FEES, payment shall be made to
25 the trustor, except that if the trustor has sold or transferred the property
26 to another owner before the trustee's sale, payment shall be made to the
27 person who is the owner of record at the time of the trustee's sale.

28 B. AFTER APPLICATION OF THE PROCEEDS PURSUANT TO SUBSECTION A,
29 PARAGRAPHS 1, 2 AND 3 OF THIS SECTION, IF THERE ARE ADDITIONAL PROCEEDS TO BE
30 DISTRIBUTED, THE TRUSTEE, WITHIN FIFTEEN DAYS OF THE COMPLETION OF THE
31 TRUSTEE'S SALE, SHALL MAIL BY FIRST CLASS MAIL AND BY CERTIFIED OR REGISTERED
32 MAIL, POSTAGE PREPAID, A NOTICE OF ANY EXCESS PROCEEDS TO THE TRUSTOR AS OF
33 THE DATE OF THE RECORDING OF THE NOTICE OF SALE. THE TRUSTEE MAY DEDUCT THE
34 COSTS OF MAILING THE NOTICE OF EXCESS PROCEEDS FROM THE ADDITIONAL PROCEEDS.

35 ~~B.~~ C. In the trustee's discretion and instead of any one or more of
36 the applications specified in subsection A of this section, the trustee may
37 elect to deposit the balance of the proceeds with the county treasurer in the
38 county in which the sale took place pending an order of the superior court in
39 the county. On deposit of the balance of the monies and after complying with
40 subsection ~~C~~ D of this section, the trustee shall be discharged from all
41 responsibility for acts performed in good faith according to this chapter.
42 The county treasurer shall reject any deposit that does not comply with
43 subsection ~~C~~ D of this section.

1 ~~E.~~ D. If the trustee elects to deposit the balance of the sale
2 proceeds as prescribed by subsection B- C of this section, the trustee as
3 plaintiff shall commence a civil action in the superior court in the county
4 in which the sale occurred. The action shall name the applicable county
5 treasurer as the defendant, but the county treasurer has no obligation to
6 respond to the complaint or appear in the action. The trustee shall mail by
7 certified or registered mail, with postage prepaid, a conformed copy of the
8 complaint that displays the filing stamp of the court clerk to the county
9 treasurer and all persons, other than the beneficiary, who are entitled to
10 notice pursuant to section 33-809 and to any other person known by the
11 trustee to have an interest of record in the property at the time of the
12 sale. The trustee shall incorporate in or attach to the complaint:

13 1. A copy of any one of the following:

14 (a) The trustee sale guarantee AND ALL AMENDMENTS OR ENDORSEMENTS
15 OBTAINED BY THE TRUSTEE.

16 (b) The title search used by the trustee in connection with the
17 trustee's sale of the subject property AND ALL AMENDMENTS OR ENDORSEMENTS
18 OBTAINED BY THE TRUSTEE.

19 (c) A detailed description of the liens and encumbrances used by the
20 trustee in connection with the trustee's sale of the property.

21 2. A copy of the list of the persons and each of the addresses to
22 which the complaint will be mailed.

23 3. A detailed description of any disbursements made by the trustee
24 pursuant to this section.

25 4. A NARRATIVE DESCRIPTION OF THE LIENS AND ENCUMBRANCES AS SHOWN IN
26 THE TRUSTEE'S SALE GUARANTEE, TITLE REPORT OR DETAILED DESCRIPTION, INCLUDING
27 AN ANALYSIS OF THE APPARENT PRIORITY OF POTENTIAL CLAIMANTS. THE TRUSTEE
28 SHALL NOT BE LIABLE FOR ANY ERROR IN THE NARRATIVE DESCRIPTION OR ANALYSIS.

29 E. The trustee may withhold from the proceeds of the sale a reasonable
30 trustee's fee and reasonable attorney fees actually incurred and the costs of
31 filing the complaint, depositing the proceeds and mailing the notices.

32 ~~D.~~ F. Upon filing the complaint, the trustee as plaintiff is
33 discharged without prejudice from the proceedings.

34 ~~E.~~ G. Any person with a recorded or other legal interest in the
35 property at the time of the sale may apply for the release of the proceeds by
36 filing an application for distribution in the civil action that was filed by
37 the trustee pursuant to subsection ~~E-~~ D of this section. The applicant shall
38 mail postage prepaid by any form of mail that requires a signed and returned
39 receipt a copy of the application to the county treasurer and all persons at
40 each of the addresses named on the list of persons that is incorporated in or
41 attached to the complaint. On return of the signed receipt or the
42 undelivered or unclaimed original envelope, the applicant shall file with the
43 court an affidavit that states that the application was mailed to the person
44 and that the application was either:

1 1. Received, as evidenced by the receipt. The applicant shall attach
2 to the affidavit a copy of the receipt.

3 2. Not received, as evidenced by the ~~original~~ returned envelope. The
4 applicant shall attach to the affidavit A COPY OF the original unopened and
5 undelivered or unclaimed returned envelope.

6 F. H. Any person who receives the application or who claims a right
7 to the proceeds may file a response to the application within thirty days of
8 the mailing of the application. The person filing a response shall mail a
9 copy of the response to each applicant. Within ten calendar days from the
10 date the response is mailed, an applicant may file with the clerk and mail to
11 each respondent a reply to the response. On expiration of the time for
12 filing a reply, an applicant shall provide the court with postage prepaid
13 business envelopes that are addressed to all persons who are entitled to
14 receive copies of the complaint pursuant to subsection ~~G~~ D of this
15 section. IF AN ASSOCIATION WITH A CLAIM IS NOT PAID BY THE TRUSTEE PURSUANT
16 TO SUBSECTION A, PARAGRAPH 4 OF THIS SECTION AND IS REQUIRED TO FILE AN
17 APPLICATION OR RESPONSE PURSUANT TO THIS SUBSECTION IN ORDER TO RECOVER
18 PROCEEDS, THE ASSOCIATION MAY REQUEST FROM THE EXCESS PROCEEDS OF THE SALE AN
19 AWARD OF ITS REASONABLE ATTORNEY FEES AND COSTS INCURRED.

20 G. I. Except as provided in subsection ~~J~~ L of this section, the
21 court shall issue an order to the county treasurer to release the proceeds
22 deposited with the county treasurer to the party entitled to receive them
23 after applying the priorities prescribed by subsection A of this section. On
24 notice to all persons who have received a copy of the complaint or who have
25 filed a responsive pleading, the court may, and if there are competing claims
26 to the proceeds, the court shall, hold a hearing to determine entitlement to
27 the proceeds. EVERY APPLICANT OR RESPONDENT SHALL ACKNOWLEDGE THE EXISTENCE
28 OF ANY APPARENT LIEN, ENCUMBRANCE OR INTEREST THAT COULD HAVE PRIORITY OVER
29 THE APPLICANT OR RESPONDENT. If the court finds that a person other than an
30 applicant or respondent has a superior right to receive the proceeds, the
31 court shall not issue an order on the proceeds until one hundred eighty days
32 from the date the complaint was filed. At any time before the expiration of
33 the one hundred eighty day period, an applicant or respondent may move for a
34 hearing to determine whether the claimed superior right is valid or
35 enforceable and whether the claim is entitled to receive priority over the
36 claim of the applicant or respondent. The motion shall set forth the
37 specific facts and evidence that support the applicant's or respondent's
38 position and shall be mailed to all persons who have received a copy of the
39 complaint or filed a responsive pleading. If a response is not filed within
40 the one hundred eighty day period by the person found by the court to have a
41 superior right to receive the proceeds, the court shall enter an order in
42 favor of any applicant or respondent entitled to the proceeds. On release of
43 the proceeds, the county treasurer may assess and deduct from the proceeds a
44 reasonable fee not to exceed one hundred dollars for the treasurer's costs
45 associated with the civil action.

1 ~~H.~~ J. Within ninety days after completion of the sale, the trustee
2 shall apply the proceeds of the sale pursuant to subsection A of this section
3 or shall deposit the proceeds with the treasurer pursuant to subsection ~~B-~~ C
4 of this section. If the trustee fails to comply with this subsection, the
5 trustee forfeits any entitlement to the fees and costs prescribed in
6 subsection ~~E-~~ D of this section and shall pay interest at the rate provided
7 for judgments pursuant to section 44-1201 from the date of completion of the
8 sale until the trustee complies with this subsection. Any person with a
9 recorded or other legal interest in the property at the time of the sale may
10 commence a civil action against the trustee for the trustee's failure to
11 comply with this subsection. The court may award the prevailing party its
12 reasonable attorney fees AND COSTS incurred in that civil action.

13 ~~I.~~ K. Excess proceeds deposited with the county treasurer pursuant to
14 subsection ~~B-~~ C of this section are presumed abandoned if the monies remain
15 with the treasurer for at least three years from the date of deposit and
16 there is no pending application for distribution.

17 ~~J.~~ L. Excess proceeds that are fifty dollars or less and that are
18 presumed abandoned under this section shall be transferred to the county
19 general fund. No further application for distribution by any applicant or
20 claim by the department of revenue may be made on these monies.

21 ~~K.~~ M. For all excess proceeds that are greater than fifty dollars and
22 that are presumed abandoned under this section, the county treasurer shall
23 submit a report to the department of revenue pursuant to section 44-307. The
24 county treasurer may assess and deduct from the proceeds a reasonable fee of
25 not more than fifty dollars for the treasurer's costs associated with
26 reporting each deposit.

27 ~~L.~~ N. The county treasurer shall be discharged from all claims and
28 responsibility for acts performed in good faith pursuant to this chapter
29 after remitting the presumed abandoned excess proceeds to the department of
30 revenue pursuant to section 44-308.

31 O. A CLAIMANT MAY ENTER INTO AN AGREEMENT WITH A THIRD PARTY TO PAY
32 FOR THE RECOVERY OF OR FOR ASSISTANCE IN THE RECOVERY OF EXCESS PROCEEDS ON
33 DEPOSIT WITH THE COUNTY TREASURER. THE AGREEMENT SHALL BE IN WRITING, SIGNED
34 BY THE CLAIMANT, AND THE CLAIMANT'S SIGNATURE SHALL BE ACKNOWLEDGED BY A
35 NOTARY PUBLIC OR OTHER PERSON AUTHORIZED TO ACCEPT AN ACKNOWLEDGMENT PURSUANT
36 TO SECTION 33-511. ANY AGREEMENT ENTERED INTO BEFORE THE EXPIRATION OF
37 THIRTY DAYS AFTER THE DATE THE TRUSTEE'S SALE WAS HELD, BUT NOT INCLUDING THE
38 DATE OF THE SALE, IS VOID AND UNENFORCEABLE. ANY FEE OR PAYMENT PROVIDED FOR
39 IN AN AGREEMENT SHALL BE REASONABLE. THE FEE OR PAYMENT SHALL BE PRESUMED TO
40 BE UNREASONABLE AND THE OBLIGATION TO PAY THE FEE OR PAYMENT IS UNENFORCEABLE
41 IF THE FEE OR PAYMENT AGREED ON EXCEEDS TWO THOUSAND FIVE HUNDRED DOLLARS
42 EXCLUDING ATTORNEY FEES AND THE COSTS OF FILING THE CLAIM AND PROVIDING THE
43 STATUTORILY REQUIRED NOTICES. ANY PERSON SEEKING A FEE OR PAYMENT EXCEEDING
44 TWO THOUSAND FIVE HUNDRED DOLLARS MAY APPLY TO THE COURT FOR ADDITIONAL
45 COMPENSATION BUT THE PERSON HAS THE BURDEN OF ESTABLISHING THAT THE

- 1 ADDITIONAL COMPENSATION IS REASONABLE UNDER THE CIRCUMSTANCES. THIS
- 2 SUBSECTION DOES NOT PRECLUDE A CLAIMANT FROM CONTESTING THE REASONABLENESS OF
- 3 ANY FEE OR PAYMENT THAT IS PROVIDED FOR IN AN AGREEMENT FOR THE RECOVERY OF
- 4 OR FOR ASSISTANCE IN THE RECOVERY OF EXCESS PROCEEDS.

APPROVED BY THE GOVERNOR APRIL 11, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2005.

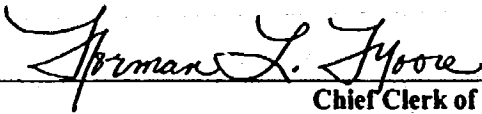
Passed the House April 4, 2005,

by the following vote: 47 Ayes,

8 Nays, 5 Not Voting



Speaker of the House



Chief Clerk of the House

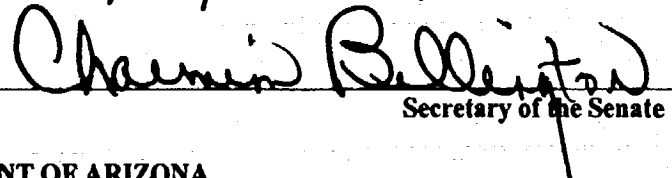
Passed the Senate March 2, 2005,

by the following vote: 23 Ayes,

6 Nays, 1 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5th day of April, 2005

at 2:15 o'clock P. M.

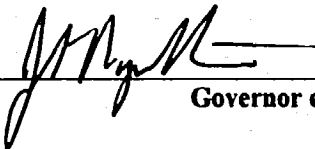


Secretary to the Governor

Approved this 11 day of

April, 2005,

at 10:10 o'clock A. M.



Governor of Arizona

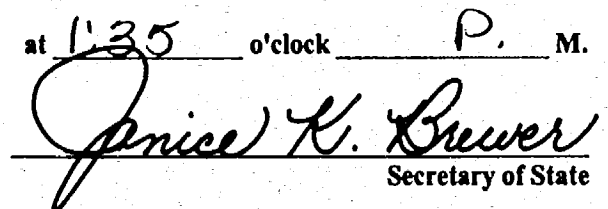
S.B. 1255

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11 day of April, 2005

at 1:35 o'clock P. M.



Secretary of State